TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. 932.

THE UNITED STATES, PLAINTIFF IN ERROR,

vs.

FIFTY BARRELS OF DISTILLED SPIRITS, BURTON M. FORD, WILLARD W. OLIVER, AND JAMES CONNER, CLAIMANTS.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ILLINOIS.

FILED OCTOBER 21, 1878.

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1 Pleas in the circuit court of the United States for the northern district of Illinois, held at the United States court rooms in the city of Chicago, in the district aforesaid, before the judges thereof, on Monday, the thirtieth day of September, in the year of our Lord one thousand eight hundred and seventy-eight, and of our Independence the one hundred and third.

WILLIAM H. BRADLEY, *Clerk.*

THE UNITED STATES OF AMERICA
v.
FIFTY BARRELS OF DISTILLED SPIRITS.

NORTHERN DISTRICT OF ILLINOIS, *ss:*

Be it remembered that on the 22d day of June, A. D. 1877, came Mark Bangs, attorney of the United States for the northern district of Illinois, and filed in the office of the clerk of the circuit court of the United States for the northern district of Illinois, at Chicago, in the district aforesaid, a transcript of the record of the proceedings had in the district court of the United States for said northern district of Illinois, which said transcript is in the words and figures following, to wit:

2 *Transcript of the record of the proceedings had in the district court of the United States for the northern district of Illinois.*

Pleas in the district court of the United States for the northern district of Illinois, held at the United States court rooms in the city of Chicago, in the district aforesaid, before the honorable Henry W. Blodgett, judge, on Wednesday the twelfth day of June, in the year of our Lord one thousand eight hundred and seventy-eight, and of our Independence the one hundred and second year.

WILLIAM H. BRADLEY, *Clerk.*

THE UNITED STATES OF AMERICA
v.
FIFTY BARRELS OF DISTILLED SPIRITS.

NORTHERN DISTRICT OF ILLINOIS, *ss:*

Be it remembered that on the twenty-first day of September, A. D. 1875, came J. D. Ward, attorney of the United States for the northern district of Illinois, and filed in the office of the clerk of the district court of the United States for said district, at Chicago, in the district
3 aforesaid, his information in said entitled cause; which said information is in the words and figures following, to wit:

Information.

4 District court of the United States of America for the northern district of Illinois.

Be it remembered that on this 21st day of September, in the year of our Lord eighteen hundred and seventy-five, J. D. Ward, attorney of the United States for the northern district of Illinois, comes into the district court of the United States of America for the northern district of Illinois, and, in the name and on behalf of the United States of America, gives the said court here to understand and be informed that, here-

tofore, to wit, on the 25th day of August, in the year of our Lord eighteen hundred and seventy-five, to wit, at Chicago, in the northern district of Illinois, within the jurisdiction of this honorable court, one H. A. Plimpton, who then and there was the deputy collector of the internal revenue of the United States for the first collection-district of the State of Illinois, did seize, as forfeited to the use of the said United States, the goods, wares, and merchandise following, that is to say, fifty barrels of distilled spirits, containing about 2,143 gallons, and now hath the same in his custody, as being forfeited for the causes hereinafter mentioned, to wit:

5 For that the said distilled spirits heretofore, to wit, on or about the 16th day of April, 1874, were distilled within the United States of America, and then and there owned by some person or persons to said attorney unknown, which person or persons then and there did engage in and carry on the business of a distiller with intent to defraud the United States of the tax on the spirits distilled by such person or persons, contrary to the form of the statute of the said United States in such case made and provided, whereby, and by force of said statute, the said distilled spirits have become and are forfeited to the said United States.

For that said distilled spirits were found elsewhere than in a distillery or distillery warehouse, not having been removed therefrom according to law, contrary to the form of the statute of the said United States in such case made and provided, whereby, and by force of said statute, the said distilled spirits have become and are forfeited to the said United States.

For that, prior to said seizure, taxes were imposed by the provisions of the internal-revenue laws upon the said distilled spirits, and the same being so subject to the payment of taxes as aforesaid, were found by the said H. A. Plimpton, deputy collector, in the possession and

6 custody and within the control of a person or persons, to said attorney unknown, for the purpose of being sold and removed by such person or persons in fraud of the internal-revenue laws, and with design to avoid payment of said taxes, contrary to the form of the statute of the said United States in such case made and provided, whereby, and by force of said statute, the said distilled spirits have become and are forfeited to the said United States.

For that a person or persons to said attorney unknown, then and there, and for a long time prior thereto, being engaged in and carrying on the business of a rectifier, did knowingly and willfully omit, neglect, and refuse to make and cause to be made returns of the quantity and proof of all the spirits purchased, and of the number of barrels of spirits, counting forty gallons of proof-spirits to the barrel, rectified, purified, and refined by him or them, and of the amount of distilled spirits removed from his or their premises after rectification, such returns monthly having been demanded by the collector of said district, and being required by law and also by the rules and regulations prescribed by the Commissioner of Internal Revenue, which distilled spirits said person or persons owned, and had an interest in as owner or owners, con-

7 trary to the form of the statute of the said United States in such case made and provided, whereby, and by force of said statute, the said distilled spirits have become, and are, forfeited to the said United States.

For that a person or persons to said attorney unknown, then and there, and for a long time prior thereto, being engaged in and carrying on the business of a rectifier, and being required by the rules and regu-

lations prescribed by the Commissioner of Internal Revenue to make a return monthly to the collector of said district of the quantity and proof of all the spirits purchased, and of the number of barrels of spirits, counting forty gallons of proof spirits to the barrel, rectified, purified, and refined by such person or persons, and of the amount of distilled spirits removed from his or their premises after rectification, and such returns having been demanded by the collector of said district, did knowingly and willfully make for and during each and every month since the 1st day of January, 1874, false and fraudulent returns of the quantity and proof of the spirits purchased, and of the number of barrels of spirits, counting forty gallons of proof spirits to the barrel, rectified, purified, and refined by him or them, and of the amount of distilled spirits
8 removed from his or their premises after rectification, said returns showing a much less amount than the amount actually purchased, rectified, and removed, which said distilled spirits said person or persons owned and had an interest in as owner or owners, contrary to the form of the statute of the said United States in such case made and provided. Whereby, and by force of said statute, the said distilled spirits have become and are forfeited to the United States.

And, therefore, and by reason of all and singular the premises aforesaid, the said attorney of the United States, on behalf of the United States, prays the said court that due process issue to enforce the said forfeiture of the said property so seized as aforesaid, and to give notice to all persons concerned in interest to appear and show cause on the return-day of said process why such forfeiture should not be decreed.

J. D. WARD,
Attorney of the United States for the Northern District of Illinois.

(Endorsed:) Filed Sept. 21, 1875. W'm H. Bradley, cl'k.

9 And on the same day, to wit, the 21st day of September, A. D. 1875, a writ of monition issued out of said clerk's office to the marshal of the northern district of Illinois, which said writ, with the return of the marshal endorsed thereon, is in the words and figures following, to wit:

Writ of monition.

UNITED STATES OF AMERICA,
Northern District of Illinois, ss:

The United States of America to the marshal of the northern district of Illinois, greeting:

Whereas an information has been filed in the district court of the United States, in and for the northern district of Illinois, on the 21st day of September, in the year of our Lord one thousand eight hundred and seventy-five, by J. D. Ward, district attorney of the United States for said district, and in the name and on behalf of the United States of America, against Fifty Barrels of Distilled Spirits, containing about 2,143 gallons, for reasons and causes in said information mentioned, and praying the usual process and monition of the said court in that be-
10 half to be made, and that all persons having or pretending to have any right, title, or interest therein, may be cited to appear and answer all and singular the matters in said libel articulately propounded, and that this court will be pleased to pronounce for the condemnation and forfeiture of said distilled spirits the damages alleged in said libel, besides costs of suit:

You are therefore commanded to attach the said fifty barrels of dis-

tilled spirits containing about 2,143 gallons, and to detain the same in your custody until the further order of this court respecting the same; and to give notice by publication for fourteen days previous to the day of trial and by notice posted up in the most public manner, for the space of fourteen days, at or near the place of trial, of such seizure, and information to all persons claiming the said distilled spirits or knowing or having anything to say why this court should not pronounce against the same according to the prayer of the said information, and that they be and appear before the said court, to be holden in and for the northern district of Illinois, at the United States court-room, in the city of Chicago, in said district, on the first Monday in November next if that be
11 a day of jurisdiction, if not, then on the first day of jurisdiction thereafter, at ten o'clock in the forenoon of that day, and then and there to interpose a claim to the same, and to make their allegations in that behalf.

And what you shall have done in the premises do you then and there make return, together with this writ.

Witness the honorable Henry W. Blodgett, judge of said court, this 21st day of September, in the year of our Lord one thousand eight hundred and seventy-five, and of our Independence the 100th year.

[SEAL.] WM. H. BRADLEY, *Clerk.*

By virtue of the within writ I seized the property mentioned herein on the 21st day of September, A. D. 1876, and on the fourth day of October, A. D. 1876, I made publication and posted notices as I am herein commanded.

B. H. CAMPBELL,
U. S. Mar.,
By T. R. BIRD,
Deputy.

Public notice is hereby given that on the twenty-first day of September, A. D. 1875, a monition issued out of the district court of the United States for the northern district of Illinois, in a cause wherein J. D.
12 Ward, district attorney of the United States for said district, and in the name and on behalf of the United States of America, informant against Fifty Barrels of Distilled Spirits, containing about 2,143 gallons, for the condemnation and forfeiture of said property, under and by virtue of which I have taken the same into custody. And notice is hereby further given that said monition is returnable on the first Monday of November next, when, if that shall be a day of jurisdiction, or if not, then upon the next day of jurisdiction thereafter, at ten o'clock in the forenoon, all persons claiming the said fifty barrels of distilled spirits, or knowing or having anything to say why the said court should not pronounce against the same according to the information in said cause, are required to be and appear before said court, at the United States court-room in the city of Chicago, in said district, then and there to interpose their claims for the same, and to make their allegations in that behalf.

Dated October 4, 1875.

B. H. CAMPBELL,
U. S. Marshal, Northern Dist. of Illinois.,
By T. R. BIRD,
Deputy.

JASPER D. WARD,
U. S. Dist. Attorney.

UNITED STATES OF AMERICA,
Northern District of Illinois, City of Chicago, ss:

I, Charles L. Wilson, publisher of the Chicago Evening Journal,
13 a newspaper published daily, Sundays excepted, in the city of Chicago, in the State and northern district of Illinois, do hereby certify that a notice, of which the printed slip hereto attached as a true copy, was published in said newspaper 14 times, in each successive daily issue thereof, and in every number of each daily issue thereof, for 14 days, the first publication thereof as aforesaid having been made therein on the 4th day of October, A. D. 1875, and the last publication thereof on the 19th day of October, A. D. 1875, and that I have received the sum of nine dollars and cents for such publication.

Dated January 11th, 1876.

CHARLES L. WILSON,
Publisher.

(Endorsed:) Filed April 6th, A. D. 1876. Wm. H. Bradley, clerk.

Afterwards, to wit, on the 5th day of October, A. D. 1875, Burton M. Ford, Willard W. Oliver and James Conner, composing the firm of B. M. Ford, Oliver and Co., filed in said clerk's office their stipulation for costs, and petition and claim in said entitled cause, which said stipulation and petition and claim are respectively in the words and figures following, to wit:

14 THE UNITED STATES OF AMERICA,
Northern District of Illinois, ss:

District court, October term, 1875.

Whereas an information was filed in this court on the 21st day of Sept., A. D. 1875, by The United against Fifty barrels of Distilled Spirits, information mentioned, and praying that the same may be condemned to answer the prayer of the information; and the said B. M. Ford, Oliver & Co., claimants herein, the parties hereto, hereby consenting and agreeing that in case of default, or contumacy on the part of the said claimants, execution may issue against their goods, chattels and lands for the sum of two hundred and fifty dollars:

Now, therefore, it is hereby stipulated and agreed, for the benefit of whom it may concern, that the stipulators undersigned shall be in the sum of two hundred and fifty dollars, conditioned that the claimants above named shall pay all such costs as shall be awarded against them by this court, or, in case of appeal, by the appellate court.

15 BURTON M. FORD.
WILLARD W. OLIVER.
JAMES CONNOR.

Taken and acknowledged this 5th day of October, A. D. 1875, before me.

U. S. Commissioner.

NORTHERN DISTRICT OF ILLINOIS, *ss:*

B. M. Ford, W. W. Oliver and James Connor, parties to the above stipulation, being duly sworn, depose and say that they each reside in

the northern district of Illinois, and are each worth the sum of five hundred dollars over and above all debts and liabilities.

BURTON M. FORD.
WILLARD W. OLIVER.
JAMES CONNER.

Sworn this 5th day of Oct., A. D. 1875, before me.

WM. H. BRADLEY, *Clerk.*

(Endorsed:) Filed Oct. 5th, A. D. 1875. Wm. H. Bradley, clerk.

16 UNITED STATES OF AMERICA,
Northern District of Illinois:

District court of the United States for said district.

The claim and petition by Burton M. Ford, Willard W. Oliver, and James Conner, composing the copartnership firm of B. M. Ford, Oliver & Co., in the matter of the information filed in behalf of the United States against 50 Barrels of Distilled Spirits, states as follows: That the said B. M. Ford, Oliver & Co. are the true and bona fide owners of said fifty barrels of distilled spirits seized as aforesaid. That the business of the said B. M. Ford, Oliver & Co. will suffer damage and derangement, and the custody of said property must be attended with great expense, unless the said property be released upon a bond to be approved by this court. And your petitioners therefore pray that said property so seized may be released upon execution of such bond and that appraisers be appointed, &c.

B. M. FORD, OLIVER & CO.

17 UNITED STATES OF AMERICA,
Northern District of Illinois, ss:

Burton M. Ford, being duly sworn, deposes and says he is a member of the firm of B. M. Ford, Oliver & Co., the petitioners herein, and has heard read the foregoing petition, and that the same is true.

BURTON M. FORD.

Subscribed and sworn before me this 4th day of October, 1875.

E. A. DRUMMOND,
U. S. Com.

(Endorsed:) Filed October 5, 1875. W'm H. Bradley, cl'k.

And on the same day, to wit, the 5th day of October, A. D. 1875, in the adjourned October term of said court, in the record of the proceedings thereof in said entitled cause, before the Hon. Henry W. Blodgett, judge, is the following entry, to wit:

THE UNITED STATES
vs.
FIFTY BARRELS OF DISTILLED SPIRITS. } Information.

18 The marshal having returned upon the monition issued herein that he had seized upon fifty barrels of distilled spirits, containing twenty-one hundred and forty-three (2,143) gallons, and had the same in his custody; and Burton M. Ford, Willard W. Oliver and James Connor, composing the firm of B. M. Ford, Oliver and Co., having appeared and filed their claim to said property as the owners thereof, and having asked that the same may be released to them on bond, in accord-

ance with the usual practice of this court in revenue cases; and it appearing from the appraisement filed herein, taken by E. F. Lawrence, I. C. Stebbins, and J. E. Brown, that the aggregate value of said property so seized is three thousand dollars ($3,000); and the said B. M. Ford, Willard W. Oliver, and James Connor, composing the firm of B. M. Ford, Oliver and Co., having presented in open court the usual bond for the delivery of such property, in the penal sum of six thousand dollars, which said bond is approved by the court and ordered to be filed in this cause, and which bond is in the words and figures following, to wit:

In the district court of the United States for the northern district of Illinois.

Know all men by these presents, that we, Burton M. Ford, Willard W. Oliver, and James Conner, composing the copartnership firm of B. M. Ford, Oliver and Co., principals, and Herman J. Pahlman
19 and Patrick O'Neil, sureties, are held and firmly bound unto the United States of America in the penal sum of six thousand dollars, lawful money of the United States of America; to which payment, well and truly to be made, we bind ourselves and each of us, jointly and severally, firmly by these presents. Dated and sealed with our seals this 4th day of October, A. D. 1875.

Whereas fifty barrels of distilled spirits, the property of the said B. M. Ford, Oliver & Co., have been seized and are now in the custody and under the control of said court for alleged violations of the internal revenue laws of the United States, all of which said property has been appraised by appraisers appointed by the district court of the United for the northern district of Illinois, in the aggregate sum of three thousand dollars, as more fully appears by said appraisal and the proceedings herein on file in said court; and whereas the said B. M. Ford, Oliver & Co., as claimants of said property, are desirous of releasing the same from said seizure: Now, therefore, the condition of this obligation is such that if the above-described property or any part thereof be adjudged to be forfeited by the said district court or any court to which said cause may be removed, and if the above bounden, B. M. Ford, Oliver & Co., shall pay to the proper officers of the United States or unto the
20 said district court the said full appraised value of said property, or of so much thereof as may be adjudged forfeited as aforesaid, then this obligation to be void; otherwise to remain in full force and effect. And in case of failure to perform the above condition and pay said appraised value aforesaid, or the appraised value of so much thereof as may be adjudged forfeited, we hereby consent and agree that a summary judgment and decree may be entered against us and each of us without notice for the said appraised value of the property forfeited, with interest thereon, in accordance with the usual practice in proceedings for condemnation, and that execution may issue thereon against our goods, chattels, and lands for the payment of said judgment and interest as aforesaid.

BURTON M. FORD.	[SEAL.]
WILLARD W. OLIVER.	[SEAL.]
JAMES CONNOR.	[SEAL.]
HERMAN J. PAHLMAN.	[SEAL.]
PATRICK O'NEIL.	[SEAL.]

(Endorsed:) Filed Oct. 5, 1875. Wm. H. Bradley, cl'k.

It is, therefore, ordered that the said property so seized be delivered to said claimants.

21 Afterwards, to wit, on the 6th day of April, A. D. 1876, in the adjourned March term of said court, in the record of the proceedings thereof in said entitled cause, before the Hon. Henry W. Blodgett, judge, is the following entry, to wit:

THE UNITED STATES OF AMERICA
v.
FIFTY BARRELS OF DISTILLED SPIRITS. } Information.

Now comes the district attorney, and also come Burton M. Ford, Willard W. Oliver, and James Connor, claimants of the property seized herein, by Sidney Smith, esq., their attorney, who withdraw their appearance and answer herein. And thereupon proclamation was made for all parties having any claim, right, title, or interest in the property and goods seized herein to come forward and make the same known or default would be entered, and all persons failing to appear, it is thereupon considered by the court that the defaults of all persons be, and they are hereby, accordingly entered.

It is thereupon ordered, adjudged, and decreed by the court that the property and goods described in the information and seized herein,
22 fifty barrels of distilled spirits, containing about 2,143 gallons, be, and the same are hereby, condemned and forfeited to the United States. And it appearing to the court that the said property and goods had been released to the claimants thereof upon bond and stipulation given by them for the release of the same, and on motion of the district attorney for judgment upon said bond, it is thereupon considered by the court that a summary judgment be, and the same is hereby, accordingly entered against Burton M. Ford, Willard W. Oliver, and James Connor, as principals, and Herman J. Pahlman and Patrick O'Neill, as sureties, in the sum of six thousand dollars, being the amount of the penalty of said bond given for the release of said property, and that execution issue therefor, to be satisfied and discharged upon the marshal making thereon the sum of three thousand dollars, being the appraised value of said property so released, together with interest thereon and costs.

Afterwards, to wit, on the 27th day of February, A. D. 1877, in the December term, A. D. 1876, of said court, in the record of the proceedings of said court in said entitled cause, before the Hon. Henry W. Blodgett, judge, is the following entry, to wit:

THE UNITED STATES OF AMERICA
v.
FIFTY BARRELS OF DISTILLED SPIRITS
23 and other property. } Information.

Now come the claimants of said property, by Leonard Swett, esq. their attorney, and on his motion and with the consent of the district attorney, it is ordered by the court that the judgment of forfeiture against said property, and the judgment on the bond for the release of the same, entered on the sixth day of April last, be so far opened for the purpose only of allowing said claimants to interpose their respective defences, with the understanding and agreement upon their part that the lien of said judgment remain unchanged.

Afterwards, to wit, on the 16th day of May, A. D. 1877, in the adjourned May term of said court, in the record of the proceedings thereof

in said entitled cause, before the Hon. Henry W. Blodgett, judge, is the following entry, to wit:

THE UNITED STATES OF AMERICA
vs.
FIFTY BARRELS OF DISTILLED SPIRITS. } Information.

Now come the parties, by their attorneys, and on motion of the district attorney it is ordered by the court that the order opening the judgment heretofore entered herein be set aside, and that said judgment stand in full force herein.

And thereupon said defendants, by C. H. Reed, esq., their at-
24 torney, move the court to open said judgment, and for leave to interpose their defence herein.

Afterwards, to wit, on the seventh day of July, A. D. 1877, in the July term of said court, in the record of the proceedings thereof in said entitled cause, before the Hon. Henry W. Blodgett, district judge, is the following entry, to wit:

THE UNITED STATES OF AMERICA
vs.
FIFTY BARRELS OF DISTILLED SPIRITS. } Information.

On motion of claimants herein, by Charles H. Reed, esq., their attorney, it is ordered by the court that execution herein be stayed until the sixth day of August next.

Afterwards, to wit, on the 6th day of August, A. D. 1877, in the said July term of said court, in the record of the proceedings thereof in said entitled cause, before the Hon. Henry W. Blodgett, judge, is the following entry, to wit:

THE UNITED STATES OF AMERICA
vs.
FIFTY BARRELS OF DISTILLED SPIRITS AND other property (Ford, Oliver and Co., claimants). } Information.

Now comes the district attorney, and the said respondents come also, by Edmund Jussen and Charles H. Reed, their attorneys, and the
25 court, having considered and being now fully advised upon the motion of said respondents, to set aside the judgment heretofore entered herein, to wit, on the sixth day of April, A. D. 1876, against the said Burton M. Ford, Willard W. Oliver, and James Conner, as principals, and Herman J. Pahlman and Patrick O'Neil, as sureties, upon the bond heretofore given for the release of said property, orders that the same be so far opened as to allow the said respondents to make their defence, but preserving the lien created by said judgment and the execution issued thereon.

And it is further ordered that the marshal take no further action towards the collection of said judgment upon said execution until the further order of the court.

Afterwards, to wit, on the 15th day of November, A. D. 1877, in the adjourned October term of said court, in the record of the proceedings

thereof in said entitled cause, before the Hon. Henry W. Blodgett, district judge, is the following entry, to wit:

THE UNITED STATES OF AMERICA
vs.
50 BARRELS OF DISTILLED SPIRITS AND OTHER property. } Information.

Now comes the district attorney, and now come also Burton M.
26 Ford, Willard W. Oliver, and James Conner, claimants of the property seized herein, by their attorneys, and on motion of said claimants, by their attorneys, leave is given them to file an amended answer herein.

And on the same day, to wit, the 15th day of November, A. D. 1877, said claimants, by their attorneys, filed in said clerk's office their amended answer in said entitled cause, which said amended answer is in the the words and figures following, to wit:

Amended answer of claimants.

United States dist. court, northern dist. of Illinois.

UNITED STATES OF AMERICA
vs.
50 BARRELS OF DISTILLED SPIRITS AND OTHER property, Ford, Oliver and Co., claimants. } No. 6675.

And the said claimants, by Chas. H. Reed and Edmund Jussen, their attorneys, having first obtained leave of court for a further and amended answer in this behalf, come and defend the wrong and injury, when, etc., and say actio non, because they say that heretofore, to wit, on the 27th day of December, A. D. 1875, at Chicago, viz, at said northern district of Illinois, the said plaintiff and the said claimants entered into an agreement by which
it was, among other things, agreed that if Burton M. Ford, one of
27 said claimants, would testify on behalf of the plaintiff frankly and truthfully, when required, in reference to a conspiracy among certain government officials in the internal revenue service and other parties, then known to exist, whereby the honest manufacture of distilled spirits and the collection of the tax thereon had been rendered practically impossible, and should plead guilty to one count in an indictment then pending against them in said district court, and should withdraw their plea in certain condemnation cases then pending against their property in said district court, for the purpose only of insuring their good faith in so testifying on behalf of the plaintiff, the said plaintiff would recall any and all assessments under the internal revenue law then made against said claimants, and that no more assessments under said law should be made against said claimants, and that no more proceedings against said claimants should be commenced on account of violation of the internal revenue laws then passed, and that no penalties or forfeitures should in any manner be enforced or recovered against them and their property, and that all suits for penalties and forfeitures then pending
against them and their property should be dismissed, and that
28 full and complete immunity, both civil and criminal, should be granted to the said claimants.

And these claimants aver that the said Burton M. Ford, and each of

them, have fully and faithfully performed said contract on their part; and they further aver that this suit is for the condemnation and confiscation of their property, originally seized by the said plaintiff on the ground of said alleged violation of the internal revenue law on the part of the said claimants, alleged to have been committed by them prior to entering into said agreement, and is one of the said suits which the said plaintiff, under the terms of said agreement, fully kept and performed on the part of said claimants as aforesaid, agreed to dismiss and discontinue, and that the prosecution of this suit is contrary to, and in violation of, said agreement entered into as aforesaid between the said plaintiff and said claimants, and this these claimants are ready to verify. Wherefore they pray judgment if the plaintiff ought to have his aforesaid action against them, etc.

EDMUND JUSSEN,
CHARLES H. REED,
Att'ys for Claimants.

(Endorsed:) Filed Nov. 15, 1877. W'm H. Bradley, cl'k.

29 Afterwards, to wit, on the 16th day of November, in the said adjourned October term of said court, in the record of the proceedings thereof in said entitled cause, before the Hon. Henry W. Blodgett, judge, is the following entry, to wit:

THE UNITED STATES OF AMERICA
v.
50 BARRELS OF DISTILLED SPIRITS AND other property. } Information.

Now comes the district attorney, and now come also the claimants, by their attorneys, and the claimants, by their attorneys, move the court, upon affidavit filed, to continue this cause; and after hearing arguments of counsel the court overrules said motion.

And on the same day, to wit, the 16th day of November, A. D. 1877, said plaintiff, by its attorney, filed in said clerk's office its demurrer to the plea of said defendants in said entitled cause, which said demurrer is in the words and figures following, to wit:

Demurrer to plea.

In the district court of the United States of America for the northern district of Illinois. October term, 1877.

THE UNITED STATES, ETC.,
v.
FIFTY BARRELS OF DISTILLED SPIRITS. } No. 6675. Information.

30 And Mark Bangs now, attorney of the said United States for the said district, who for the said United States in this behalf prosecutes, as to the plea of the said claimants in this behalf called a further and amended answer for the said United States, says that the said plea and the matters therein contained, in manner and form, etc., are not sufficient in law to bar the said United States, etc., and that he is not bound by law to answer the same; and this the said attorney who prosecutes as aforesaid for the said United States is ready to verify. Wherefore, for

want of a sufficient plea in this behalf, the said attorney who prosecutes as aforesaid for the said United States prays judgment, etc.

MARK BANGS,
U. S. Attorney.

(Endorsed:) Filed Nov. 16th, 1877. W'm H. Bradley, clerk.

Afterwards, to wit, on the 17th day of November, A. D. 1877, in the said adjourned October term of said court, in the record of the proceedings thereof in said entitled cause, before the Hon. Henry W. Blodgett, judge, is the following entry, to wit:

THE UNITED STATES OF AMERICA
v.
50 BARRELS OF DISTILLED SPIRITS AND other property. } Information.

31 Now comes the district attorney, and now come also the claimants, by their attorneys, and now comes on to be heard the demurrer of the complainant to the amended answer of the claimant filed herein on the fifteenth instant; and after hearing the arguments of counsel the court overrules said demurrer, and on motion of the district attorney, leave is given him to file several replication herein.

Afterwards, to wit, on the 20th day of April, A. D. 1878, in the adjourned March term of said court, in the record of the proceedings thereof in said entitled cause, before the Hon. Henry W. Blodgett, district judge, is the following entry, to wit:

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Now come the parties, by their attorneys, and on motion of the district attorney, leave is given the plaintiffs to withdraw all replications heretofore filed to the plea of the respondents herein, with leave to the plaintiffs to file their demurrer to said plea.

Afterwards, to wit, on the 9th day of May, A. D. 1878, said plaintiff, by its attorney, filed in said clerk's office its demurrer to the plea of said defendants in said entitled cause; which said demurrer is in the
32 words and figures following, to wit:

Demurrer to plea.

In the district court of the United States of America for the northern district of Illinois, May term, 1878.

THE UNITED STATES, ETC.,
vs.
FIFTY BARRELS OF DISTILLED SPIRITS. } No. 6675. Information.

And Mark Bangs now, attorney of the said United States for the said district, who for the said United States in this behalf prosecutes, as to the plea of the said claimants in this behalf called a further and amended answer, for the said United States says that the said plea and the mat-

ters therein contained, in manner and form, etc., are not sufficient in law to bar the said United States, etc., and that he is not bound by law to answer the same; and this the said attorney, who prosecutes as aforesaid for the United States, is ready to verify; wherefore, for want of a sufficient plea in this behalf, the said attorney, who prosecutes as aforesaid for the said United States, prays judgment, etc.

MARK BANGS,
U. S. Attorney.

(Endorsed:) Filed May 9, 1878. Wm. H. Bradley, cl'k.

33 And afterwards, to wit, on the 12th day of June, A. D. 1878, in the adjourned May term of said court, in the record of the proceedings thereof in said entitled cause, before the Hon. Henry W. Blodgett, judge, is the following entry, to wit:

THE UNITED STATES OF AMERICA
vs.
FIFTY BARRELS OF DISTILLED SPIRITS, &C. } Information.

Now comes the district attorney, and the claimants of said property, Burton M. Ford, Willard W. Oliver, and James Connor come also, by Edmund Jussen and Charles H. Reed, their attorneys, and the court being now fully advised as to the demurrer of the United States to the plea filed herein (alleging that said claimants had been used as witnesses by the United States in criminal transactions against their accomplices, and had thereby become entitled to immunity from the forfeiture prayed in this case by reason of agreement made with the United States), heretofore submitted to the court upon the arguments of the district attorney and the arguments of the attorneys for said claimants, doth find, both from the admissions made by said demurrer and also from facts appearing upon the records and within the judicial knowledge of the court, that said claimants were used as witnesses by the government in criminal cases against their associates upon the promise and under-
34 standing that this case should be no further prosecuted. It is thereupon ordered by the court that said demurrer be overruled, and this cause is dismissed, both by reason of the defence set up in said plea and also because of the finding of the court from the facts appearing in the record, and within the judicial knowledge of the court, that this cause ought not to be further prosecuted by the plaintiff, and thereupon the United States, by Mark Bangs, district attorney, prays an appeal to the circuit court, which is allowed.

NORTHERN DISTRICT OF ILLINOIS, *ss:*

I, William H. Bradley, clerk of the district court of the United States for said district, do hereby certify the above and foregoing to be a true, correct, and complete transcript of the record of all the proceedings had in said court in the cause wherein the United States of America is the plaintiff and Fifty Barrels of Distilled Spirits is the defendant, as the same appears from the files and records of said court now remaining in my custody and control.

In testimony whereof I have hereunto set my hand and affixed the seal of said court at my office in Chicago, in said district, this 21st day of June, A. D. 1878, and of our Independence the 102d year.

[SEAL.] W'M H. BRADLEY, *Clk.*

35 Afterwards, to wit, on the 22d day of June, A. D. 1878, in the adjourned May term of said court, in the record of the proceedings thereof in said entitled cause, before the Hon. John M. Harlan, one of the justices of the Supreme Court of the United States, is the following entry, to wit:

THE UNITED STATES OF AMERICA
v.
FIFTY BARRELS OF DISTILLED SPIRITS, &c.

Now comes the district attorney, and come also the claimants, by Edmund Jussen and Charles H. Reed, their attorneys, and thereupon this cause is set down for hearing upon the record from the district court filed herein, and, after hearing a part of the arguments of counsel, the hour of adjournment having arrived, the further hearing is postponed until Monday morning next.

Afterwards, to wit, on the 24th day of June, A. D. 1878, in the said adjourned May term of said court, in the record of the proceedings thereof in said entitled cause, before the Hon. John M. Harlan, one of the justices of the Supreme Court of the United States, is the following entry, to wit:

THE UNITED STATES OF AMERICA
v.
FIFTY BARRELS OF DISTILLED SPIRITS.

36 Now come the district attorney, and the claimants, by their attorneys, and, after hearing the concluding arguments of counsel upon the issue herein, the court takes the same under advisement.

And afterwards, to wit, on the 30th day of September, A. D. 1878, in the July term of said court, in the record of the proceedings thereof in said entitled cause, before the Hon. John M. Harlan, one of the justices of the Supreme Court of the United States, is the following entry, to wit:

THE UNITED STATES OF AMERICA
vs.
FIFTY BARRELS OF DISTILLED SPIRITS.

This cause having been heretofore set down for hearing upon the record from the district court herein, and heard by the court and taken under advisement, and the court having considered and being now sufficiently advised in the premises, affirms the judgment of the district court herein. It is thereupon considered by the court that this cause be dismissed.

37 NORTHERN DISTRICT OF ILLINOIS, *ss:*

I, William H. Bradley, clerk of the circuit court of the United States for said district, do hereby certify the above and foregoing to be a true, correct, and complete transcript of the record of all the proceedings had in said court in the cause wherein The United States of America is the plaintiff and Fifty Barrels of Distilled Spirits is the defendant, as the same appears from the files and records of said court now remaining in my custody and control.

In testimony whereof I have hereunto set my hand and affixed the seal of said court, at my office in Chicago, in said district, this 19th day of October, A. D. 1878, and of our Independence the 103d year.

[SEAL.] WM H. BRADLEY, *Clerk.*

38 UNITED STATES OF AMERICA.
Northern District of Illinois:

The United States of America to the judges of the circuit court of the United States for the northern district of Illinois, greeting:

Because in the record and proceedings, as also in the rendition of a judgment in a plea which is before you in said circuit court between The United States of America, plaintiffs, and Fifty Barrels of Distilled Spirits, defendants, and Burton M. Ford, Willard W. Oliver, and James Connor, claimants, a manifest error hath happened, to the great damage of the said United States of America, as by their complaint appears, and it being fit that the error, if any there has been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, you are hereby commanded, if judgment be given therein, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the second Monday of October, A. D. 1878, in the Supreme Court to be then and there held, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error what of right and according to the law and custom of the United States should be done.

Witness the Hon. Morrison R. Waite, Chief Justice of the Supreme Court of the United States, this thirtieth day of September, in the year of our Lord one thousand eight hundred and seventy-eight, and of the Independence of the United States the 103d year.

[SEAL.] WM H. BRADLEY, *Clerk.*

39 UNITED STATES OF AMERICA.
Northern District of Illinois, ss:

To Burton M. Ford, Walter W. Oliver, and James Connor, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington, on the second Monday of October, A. D. 1878, pursuant to a writ of error filed in the clerk's office of the circuit court of the United States for the northern district of Illinois, wherein the United States of America are plaintiffs, Fifty Barrels of Distilled Spirits, defendant, and Burton M. Ford, Walter W. Oliver, and James Connor, claimants, to show cause, if any there be, why the errors in said writ mentioned should not be corrected and speedy justice should not be done to the parties in that behalf.

Witness the Hon. Henry W. Blodgett this 10th day of October, in the year of our Lord one thousand eight hundred and seventy-eight.

H. W. BLODGETT, *Judge.*

40 I hereby accept service of the within writ of citation, and enter the appearance of the within-named Burton M. Ford, Walter W. Oliver, and James Connor, claimants.

Chicago, Oct. 10, 1878.

CHAS. H. REED & EDMUND JUSSEN,
Att'ys for Claimants.

(Indorsed:) 890. Supreme Court of the United States. The United States of America vs. Fifty Barrels Distilled Spirits. Citation. To October term, A. D. 18 .

I have served the within writ of citation upon Charles H. Reed, attorney of record for the within-named claimants, Burton M. Ford, Walter W. Oliver, and James Connor, by personally delivering a true copy of the same to said Reed this 10 day of October, A. D. 1878. I also personally served the same upon Edward Jussen, one of the attorneys, by reading the same to him, this 10 day of October, A. D. 1878.

J. S. HILDRUP,
U. S. Marshal.
D. D. SABIN,
Deputy.

Marshal's fees: 2 services, 4.00.

(Indorsement on cover:) No. 932. The United States, plaintiff in error, vs. Fifty Barrels of Distilled Spirits, Burton M. Ford, Willard W. Oliver, & James Connor, claimants. N. Illinois C. C. U. S. Filed 21st October, 1878.